

The Honorable James McDermott
United States House of Representatives
Washington, DC 25015

Dear Representative McDermott,

Many thanks for the invitation to offer suggestions relative to the Title IV-E program. We appreciate the opportunity to be heard on such an important issue.

Rather than delve into a detailed proposal, I would like to outline what my colleagues and I see has the central policy puzzle—balancing the entitlement with flexibility—and then offer your committee any assistance it might seek in solving this particular issue.

To begin with, it is important to state our general orientation to public policy in the child welfare arena. By virtue of their right to protection, a child's access to a continuum of child welfare services should not be abridged for any reason. Nor should access to and utilization of services be influenced *unduly by the ways in which services are financed*. Moreover, funding for the child welfare service continuum is a responsibility shared by the federal, state, and local government. Federal, state, and local financing should promote flexible, context sensitive investments in a mix of services within an overarching framework of accountability.

In our view, the current federal financing and accountability mechanisms fall well short of this goal. The main tension within current policy ties back to how the IV-E foster care entitlement affects the fiscal systems and the desire on the part of states to have more discretion over the use of IV-E board and maintenance funds. As you know all too well, as states reduce their foster care caseloads through prevention and related services, federal support as a percentage of total state expenditures for the child welfare program drops because the state is no longer producing claims for foster care. This is sometimes referred to as the *IV-E disincentive*.

When making the case for flexibility, states and others are really questioning why federal financial participation drops when states protect children in ways that are less dependent on foster care. It is a good question.

The heart of the problem lies with the fact that HHS relies on a retrospective, claims-based reimbursement system. Claims-based reimbursement systems work well in an entitlement context because they afford HHS an opportunity to determine whether the claims are reimbursable (i.e., made on behalf of eligible children and for eligible

services). However, the need to adjudicate the claim is a feature of the system that promotes rigidity – if the claim fails to pass either test, HHS has no obligation to pay the claim. It's a simple but important structural dynamic. As states shift the way they protect children to in-home, community-based services, the claims for services a state generates no longer pass the eligibility or service-type test.

The principal alternative to a retrospective claims-based system is a prospective payment system. In a prospective payment, the payer (HHS, in this case) determines prospectively the number of claims it expects to pay out over the course of the year. This is akin to what happens at CBO and HHS, where analysts attempt to figure out what the government will lay out for various programs during a given fiscal year. In a prospective payment system, these estimates become the basis for the payments rather than mere estimates that agencies use for accounting purposes. There are a number of different types of prospective payment systems. Block grants are one type of prospective payment systems but *not* the only example.

A side-by-side comparison, in the context of the Title IV-E foster care program, reveals that both approaches have complementary strengths and weaknesses. The retrospective claims process is relatively inflexible with respect to whether a claim is eligible for reimbursement, but because of the entitlement, the approach provides very good protection in the event that the need for foster care rises above anticipated levels. This notion of shared risk between federal and state governments is the principal social policy idea behind the entitlement. The retrospective claim system is how the entitlement has been operationalized as a payment system.

Prospective payment systems offer relief for the flexibility problem insofar as one can say that within the parameters identified, a state may spend the funds on the types of services it deems necessary relative to the social policy objectives of the program. In exchange for flexibility, a prospective payment system will usually have provisions that describe what happens when the allocation for services runs out before the year is up. When this happens, it generally means one of two things: 1) need-based demand was higher than expected or 2) states spent the funds on services that did not have the intended effect (e.g., preventing placement). Prospective payment systems with a hard cap (e.g., a block grant) would make it difficult to claim additional funds; other approaches would make it easy to claim above the original allocation. Whether or not the cap is a hard, this feature of prospective payment systems is the one that threatens the entitlement. Whereas the retrospective claim system allows the state to submit as many eligible claims as it has, the prospective payment *may* limit the number of claims a state may submit.

I have highlighted the word *may* in the preceding sentence because it really is a question of whether the right word is *may* or *must*. Discussions pertaining to flexible funding almost always treat the choice as one option versus another—if we stay with the entitlement, we cannot implement a prospective payment approach; if we choose a prospective payment method, then we have to throw out the retrospective approach and the entitlement along with it.

We think that this may, in fact, represent a false choice—one could operate both approaches simultaneously. The retrospective claims component would preserve the entitlement for those times when states use more foster care than expected; the prospective payment component would be used to determine whether states spent less for foster care such that the state would be eligible to receive the federal share of the foster care included in the base but not used for that purpose. In anticipation of an associated reduction in foster care, the state would be free to spend those funds in whatever way it wished so long as those expenditures were matched by local dollars and were related to child welfare purposes (defined, for example, by the Title IV-B program).

The details of how such a dual approach would work in practice go well beyond the scope of a short letter. Nevertheless, you pointed out in your statement during the hearing and in your questions following the testimony that your principal goal with respect to finance is preserving the entitlement. We at Chapin Hall agree wholeheartedly with that sentiment. We worry, however, that the entitlement has become a set of golden handcuffs leaving vulnerable children tied to a good idea with other good ideas just beyond their reach.

There are workable alternatives—solutions that address the simple structural problem that is at the heart of the issue. There are myriad issues facing America’s vulnerable children, and we applaud those in Washington who have thought broadly about how we can best meet their needs. Those challenges attract our attention as well; that work should not stop. At the same time, the intricacies of how systems work on the ground are often lost in focus on big ideas. One has to look no further than the 1996 IV-E “look back” provision to understand what happens when relatively simple details are overlooked. We could in the current struggle to find a big idea lose sight of the simple problems that define the system we have now.

In closing, we hope the Committee, under your capable leadership, will keep a pragmatic eye on the details that have kept the system locked in a way of doing business that doesn’t work as well as we all would like.

Again, many thanks for your leadership on issues facing America’s children and families and for taking the time to hear us out.

Best Regards,

A handwritten signature in black ink, appearing to read "Matthew Stagner". The signature is fluid and cursive, with the first name "Matthew" written in a larger, more prominent script than the last name "Stagner".

Matthew Stagner, Ph.D.
Executive Director, and
Senior Lecturer, Irving B. Harris School of Public Policy Studies